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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

\+ FAO 69/2012

RUPA DEVI & ORS ..... Appellants

Through: Mr. Anshuman Bal, Advocate.

versus

UNION OF INDIA THR GM NORTHERN RAILWAY ..... Respondent

Through: Ms. Shipra Shukla, Advocate.

CORAM:
HON'BLE MR. JUSTICE NAJMI WAZIRI

<u>O R D E R</u>

% 15.05.2018

1. The appellants impugn an order dated 20.09.2011 of the Railway Claims Tribunal declining their claim for compensation on the demise of Mr. Godhan. Appellant no. 1 is the widow of deceased and the appellant no. 2 is the son of deceased.

2. It is the appellant's case that Mr. Godhan-the deceased was travelling in the EMU passenger train from Okhla to New Delhi along with his cousin and because of the train being over crowded, he was standing near the gate of the compartment and due to a sudden jerk, thrust and push from inside the train, he fell down from the train and received fatal injuries and subsequently, he succumbed to the injuries. The local Police received a call at 5:20 p.m. to the effect that a person has fallen from the train. It was recorded that the train from which the deceased fell was a passenger train.

3. The respondent accepted that he was travelling by the same EMU

passenger train, however, in the evidence led by the Railways, one Mr. Samir Chakraborty - Station Master stated that the information received by him was that the deceased had fallen from some other train and not from a passenger train for which he does not possess the requisite ticket. Hence, the Railways cannot be held liable. Interestingly, in the DRM Report, the Railways had accepted that the accident happened because of a fall from the EMU passenger train, however, the evidence which was led by them states otherwise.

For the grant of compensation under the Railways Act, 1989 what is to be seen is that the loss of life or injury to the passenger ought to have been caused on account of an untoward incident. A fall from a railway train, whether moving or stationary, both are untoward incidents. In this regard, the Railways have accepted that the deceased fell from a moving train. The passenger also had a valid ticket for the said journey and it is so proven, therefore, the Railways would be liable under section 123 of the Act to pay the compensation. It is important to note that the cousin of the deceased was a co-passenger; his evidence remains unshaken; he had deposed that they were travelling from Okhla to New Delhi with on a valid passenger ticket and during the journey, the deceased fell down at the Okhla Railway Station, received fatal injuries and succumbed to it.

4. In view of the above, the claim has to be and is allowed. The appellants are entitled to compensation. In terms of the Notification dated 27.12.2016 amending the Railways Accidents and Untoward Incidents (Compensation) Rules, 1990, the compensation for human fatality is Rs. 8 lacs. Accordingly, Rs. 8 lacs shall be paid to the appellants by the Respondent/Railways for the loss of the life of Mr. Godhan in a railway

untoward accident.

5. In view of the judgment of the Supreme Court in ***Union of India vs. Rina Devi***, Civil Appeal No. 4945/2018 pronounced on 09.05.2018, interest can be awarded from the date of the accident itself when the liability of the Railways arises upto the date of payment, without any difference in the stages. Accordingly, an interest @ 9% per annum is awarded from the date of the accident i.e. 07.08.2010. The said amount shall be deposited within six weeks, from the date of receipt of this order, in the UCO Bank, Delhi High Court Branch and shall be kept by the Bank in the account of Mr. Godhan. Upon deposit, Rs. 2 lac shall be released to the claimants/appellants – the widow of the deceased and the son of the deceased in their Bank **A**ccounts being SB A/c 025110024410 in the name of Roopa Devi - wife of the deceased and SB A/c 025110002956 in the name of Babulal - son of the deceased both maintained with State Bank of India, Okhla Ind. Estate, Phase III, New Delhi-110020. The remaining amount shall be kept in an interest bearing FDRs of Rs. 75,000/- each to mature every successive year. Upon maturity, the FDR amount alongwith interest accrued thereon shall be directly transferred into the Bank accounts of the appellants/claimants. The Manager, UCO Bank shall retain the original FDRs. In case of exigency, the appellants may move the Court for directions.

6. The appeal is allowed in the above terms.

NAJMI WAZIRI, J

MAY 15, 2018/RW